



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 21 2006

OFFICE OF
CIVIL RIGHTS

RETURN RECEIPT REQUESTED
Cert. 7004-1160-0004-8430-9760

In Reply Refer To:
EPA File No: 10R-05-R6



Re: Retaliation complaint against the City of Elgin

Dear [REDACTED]:

This letter is to inform you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) will not investigate the administrative complaint dated June 7, 2005, filed against the City of Elgin, Texas. The complaint alleges that the City of Elgin retaliated against you by refusing to provide sewer and water facilities to the J.C. Madison Subdivision, thereby violating Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and EPA's regulations implementing Title VI, found at 40 C.F.R. Part 7 (Part 7).

EPA's nondiscrimination regulations provide, "No applicant, recipient, nor other person shall intimidate, threaten, coerce, or discriminate against any individual or group" for, among other things, filing a complaint pursuant to Part 7. 40 C.F.R. § 7.100. To be accepted for investigation, a retaliation complaint must meet the jurisdictional criteria described in EPA's Title VI regulations. First, it must be in writing. Second, it must describe alleged discriminatory acts that violate EPA's Title VI regulations (*i.e.*, an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

The complaint states that on November 14, 2002, you requested sewer and water service to the J.C. Madison Subdivision. The City of Elgin refused your request. The complaint also states that a settlement agreement was reached on December 3, 2003, by you and the City of Elgin, addressing structure costs for delivery of timely sewer and water service to the J. C. Madison Subdivision. However, your complaint states that the City of Elgin continued to refuse sewer and water services to the J.C. Madison Subdivision. The complaint then states that on May 27, 2005, the City of Elgin sent you

a letter threatening to shut off services to your property. You allege that this letter was sent to you in retaliation for your fervent challenges against the City of Elgin and their refusal to provide sewer and water to the J.C. Madison Subdivision.

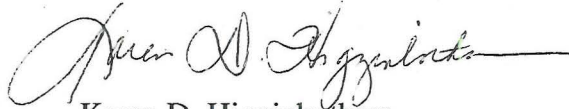
Based upon the facts stated above, OCR has concluded that it cannot accept your complaint for investigation because it does not describe an alleged discriminatory act that violates EPA's Title VI regulations.

Pursuant to EPA's Title VI regulations, the complaint must describe an alleged discriminatory act committed by an applicant, recipient, or other person that would violate EPA's nondiscrimination regulations¹ or Federal statutes². Specifically, § 7.100 prohibits an applicant or recipient from (1) interfering with rights protected by 40 C.F.R. Part 7, (2) retaliation for participating in the 40 C.F.R. Part 7 complaint process or 40 C.F.R. Part 7 proceedings, and (3) retaliation for opposing any practices prohibited by 40 C.F.R. Part 7. In accordance with § 7.100, OCR has determined that the letter sent to you, from the City of Elgin, threatening to shut off services to your property does not constitute a violation of § 7.100.

In addition, while EPA's Title VI regulations found at §§ 7.35(a)(1)-(3) of 40 C.F.R. Part 7 prohibit recipients from denying or restricting a person any service, aid, or other benefit of a program, the City of Elgin is not an applicant nor recipient pursuant EPA's Title VI regulations. For the reasons stated above, OCR has concluded that we cannot accept this retaliation complaint for investigation.

If you have any questions, please contact Ms. Helena Wooden-Aguilar of my staff by phone at (202) 343-9681, by e-mail at Wooden-Aguilar.Helena@epa.gov, or by mail to the U.S. EPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,



Karen D. Higginbotham
Director

¹ See generally, 40 C.F.R. Part 7 § 7.35 - § 7.100.

² Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500.

Enclosure

cc: Mr. Jeff Coffee
City Interim Manager
City of Elgin
310 North Main Street
Elgin, Texas 78621

Stephen Pressman, Associate General Counsel
Civil Rights Law Office (MC 2399A)

Sherry Brown-Wilson, Title VI Coordinator
Region 6